

Regular Session, 2010

HOUSE BILL NO. 189

BY REPRESENTATIVE RICHARD AND SENATOR KOSTELKA

**VETOED**  
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**Veto Message**

AN ACT

To enact R.S. 11:441.2, relative to early retirement; to enact the Early Retirement and Payroll Reduction Act; to provide for a reduction in state employment and for early retirement of members of the Louisiana State Employees' Retirement System; to provide for eligibility, retirement benefits, restrictions on hiring new employees, abolition of vacated positions, restrictions on appropriated funds, and funding; to provide an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published  
as provided by Article X, Section 29(C) of the Constitution  
of Louisiana.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:441.2 is hereby enacted to read as follows:

§441.2. Early Retirement and Payroll Reduction Act

A. Purpose. This Section shall be known as the Early Retirement and Payroll Reduction Act. Its purpose is to permanently reduce the number of state employees, thereby reducing payroll costs, in a manner which furthers the fiscal soundness of the state and which is fair and equitable to the employees of the state. The Act is intended to accomplish this purpose by encouraging voluntary early retirement by the temporary reduction of retirement eligibility requirements, and by restricting the hiring of new employees.

B. Eligibility Requirements for Early Retirement. Any member of the Louisiana State Employees' Retirement System may retire pursuant to the provisions of this Section and shall receive the benefits set forth in Subsection C of this Section

1           if he has attained at least age fifty and has at least ten years of service credited to his  
2           retirement account, exclusive of any military service credit.

3           C. Retirement Benefits. Any person who retires pursuant to the provisions  
4           of this Section shall receive an annual retirement allowance consisting of an  
5           actuarially reduced benefit. The annual benefit shall be calculated in accordance  
6           with the provisions of R.S. 11:444(A); however, the benefit of any such person shall  
7           be actuarially reduced to account for early retirement. In no event shall the annual  
8           retirement allowance exceed one hundred percent of average compensation as  
9           specified by R.S. 11:231. Any person who retires pursuant to the provisions of this  
10          Section shall not be eligible to participate in the Deferred Retirement Option Plan or  
11          the Initial Benefit Option as set forth in R.S. 11:446(A)(5).

12          D. Application of Other Early Retirement Provisions. If any person is  
13          eligible for early retirement pursuant to this Section or under the early retirement  
14          provisions of R.S. 11:441(A)(1)(d), he may retire under the applicable provision;  
15          however, the restrictions on refilling employee positions as set forth in Subsection  
16          E of this Section shall also apply to positions vacated by early retirement under R.S.  
17          11:441(A)(1)(d). Any such person who retires pursuant to this Section or pursuant  
18          to R.S. 11:441(A)(1)(d) shall not be eligible for reemployment by the state of  
19          Louisiana or any agency thereof for a period of two years from the date of  
20          retirement.

21          E. Restrictions on Employee Positions and Payroll. (1) It is the intention of  
22          this Section to effect a permanent and substantial reduction in the number of state  
23          employees and in the state payroll. Accordingly, any position which becomes vacant  
24          as a result of a person's retirement pursuant to this Section or pursuant to R.S.  
25          11:441(A)(1)(d) shall be abolished and shall be reestablished only upon the  
26          authorization, jointly by the commissioner of administration and the director of state  
27          civil service with respect to the executive branch, the Legislative Budgetary Control  
28          Council with respect to the legislative branch, or the Judicial Budgetary Control  
29          Board with respect to the judicial branch. In no event shall more than ten percent of  
30          the positions in each respective branch of state government which have become

1 vacated as a result of retirements made pursuant to this Section or pursuant to R.S.  
2 11:441(A)(1)(d) be reestablished over any five-year period. In addition, no more  
3 than one-third of the positions abolished pursuant to this Section in each branch of  
4 state government in any one fiscal year may be reestablished during that fiscal year.

5 (2) The limitations set forth in Paragraph (1) of this Subsection shall be  
6 inapplicable with respect to specific individual cases whenever, as to the executive  
7 branch of state government, either the commissioner of administration or the  
8 governor act together with the director of state civil service to certify jointly that an  
9 emergency need exists; as to the legislative branch of state government, the  
10 Legislative Budgetary Control Council certifies that an emergency need exists and  
11 such need is also certified and approved jointly by the president of the Senate and the  
12 speaker of the House of Representatives; and as to the judicial branch of state  
13 government, the Judicial Budgetary Control Board certifies that an emergency need  
14 exists and such need is also certified and approved by the chief justice of the  
15 Louisiana Supreme Court.

16 (3) Positions which are reestablished shall be filled only by appointment of  
17 existing employees from within the same agency whenever such agency has  
18 qualified personnel to fill such positions. Positions becoming vacant by such  
19 appointment of existing employees shall be abolished, subject to the same  
20 reestablishment conditions.

21 (4) Whenever a position is abolished, the appointing authority of the agency  
22 in which the position is funded shall notify the state treasurer of the unspent portion  
23 of state general funds appropriated to pay for that position. The state treasurer shall  
24 withhold from that agency's state general fund appropriation an amount equal to the  
25 unspent state general fund appropriation, including employer retirement  
26 contributions, for the position abolished. If the position is reestablished, the state  
27 treasurer shall return to the agency's state general fund appropriation an amount  
28 sufficient to pay for the position from the date of reestablishment to the end of the  
29 fiscal year in the proportion and to the extent the position is to be funded from the  
30 state general fund.

1           (5) Notwithstanding any other provision of law to the contrary, no position  
2           which is vacated as a result of retirement pursuant to this Section or to R.S.  
3           11:441(A)(1)(d) shall be filled unless such position is reestablished as provided in  
4           this Subsection, and such hiring is authorized:

5           (a) Jointly by the commissioner of administration and the director of state  
6           civil service with respect to the executive branch of state government. The  
7           commissioner of administration shall provide the initial approval.

8           (b) By the Legislative Budgetary Control Council with respect to the  
9           legislative branch of state government.

10          (c) By the Judicial Budgetary Control Board with respect to the judicial  
11          branch of state government.

12          (6) The governor shall prepare, as part of the executive budget, a summary,  
13          by agency, of the number of positions abolished pursuant to this Section as well as  
14          positions abolished and refilled pursuant to Paragraph (5) of this Subsection.

15          F. Exception. Notwithstanding any other provision of law to the contrary,  
16          the provisions of this Section which abolish vacated positions shall not be applicable  
17          to any positions of the LSU Health Sciences Center at Shreveport, E.A. Conway  
18          Medical Center in Monroe, or Huey P. Long Medical Center in Pineville, or to  
19          Department of Public Safety and Corrections security officers or probation and  
20          parole officers.

21          G. The provisions of the Early Retirement and Payroll Reduction Act of  
22          2001 (Act No. 844 of the 2001 Regular Session of the Legislature), the Early  
23          Retirement and Payroll Reduction Act of 2004 (Act. No. 194 of the 2004 Regular  
24          Session of the Legislature), and the Early Retirement and Payroll Reduction Act of  
25          2006 (R.S. 11:441.1) are not affected by this Section, and the provisions of those  
26          Acts remain in effect, particularly the provisions of those Acts relating to the  
27          elimination, reestablishment, and filling of vacated positions.

28          H. It is the express intent of the legislature in enacting this Section that the  
29          provisions of Subsection E are severable from the remaining Subsections of this  
30          Section. Further, it is the intent of the legislature in enacting this Section that any

1           ~~declaration, legal opinion, or court ruling declaring Subsection E of this Section~~  
2           ~~unconstitutional shall not in and of itself cause the remaining Subsections to be~~  
3           ~~deemed void, unenforceable, or unconstitutional.~~

4           Section 2.(A) This Act shall become effective on July 1, 2010; if vetoed by the  
5           governor and subsequently approved by the legislature, this Act shall become effective on  
6           July 1, 2010, or on the day following such approval by the legislature, whichever is later.

7           (B) R.S. 11:441.2 as enacted by this Act, except for Subsection E thereof, shall be  
8           null, void, and of no effect on and after July 1, 2013.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

### **VETO MESSAGE**

House Bill No. 189 by Representative Richard provides for early retirement for members of the Louisiana State Employees' Retirement System (LASERS) with an actuarial reduction of benefits. While I fully support the goal of the bill which adds to existing law allowing for early retirement and the abolition of positions, I am concerned that the proposed legislation exempts three hospitals but does not adequately account for critical positions that have a direct impact on patient care or for critical positions that have a direct impact on public safety, such as State Troopers.

For these reasons, I have vetoed House Bill No. 189 and hereby return it to the House of Representatives. Please note that I vetoed similar legislation last year for the same reasons.